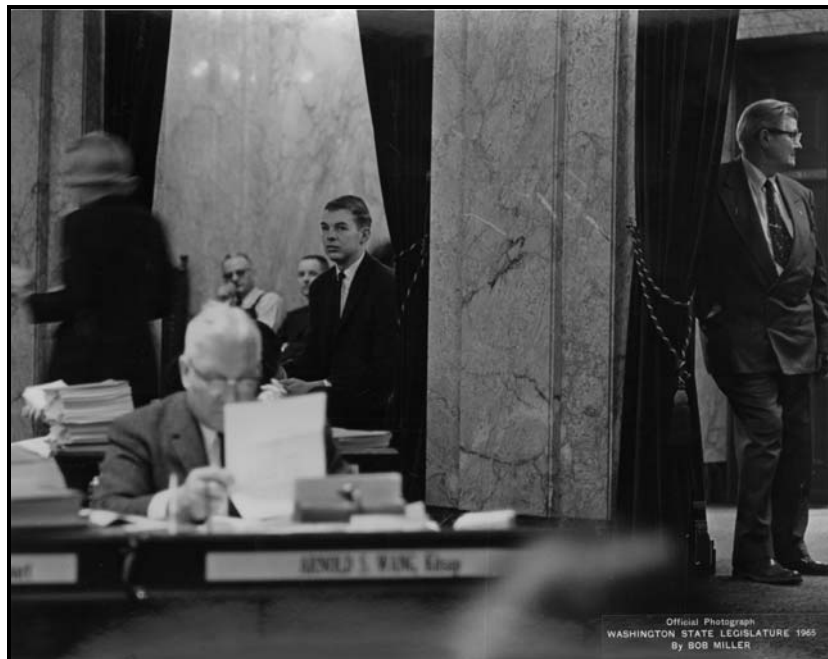


Howard E. McCurdy, a former aide to then-Representative Slade Gorton, has graciously given us permission to reprint his account of the redistricting battles of the 1960s, *A Majority of the People: Factional Politics and Redistricting in Washington State* (1970).

Scroll down to read excerpts related to 1965 or [read the entire manuscript](#).

## About the Author

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A young Howard McCurdy observes the legislative proceedings during the 1965 session.

# A Majority of the People

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## A Case Study in the Redistricting of Washington State

by Howard E. McCurdy



Syracuse, N.Y.: Inter-University Case Program, 1967  
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- 5) The 16<sup>th</sup> district in the tri-cities area. The Republicans wanted to subdivide this Democratic district, knowing that the Kennewick-Richland half would be less Democratic than the district as a whole.

Negotiations were deadlocked. Each side thought it had given far more than it should. Each insisted that the other side give in to save the compromise.

### Greive Searched for a Solution

On Wednesday, February 17, the Democratic leadership gathered in Speaker Schaefer's office to review their position. Gissberg refused to attend, insisting that the success of the matter now rested entirely with the Republicans. O'Brien and Schaefer argued that the party should give in no more, that all the contested areas should go to the Democrats. Greive, however, argued for some concession. He suggested that disagreements be divided down the middle, with each party having their way on half. But he was alone, for no one else wanted to give in.

The negotiators (the original group, plus Day, Grant, and the senator from the one unresolved Spokane district) reconvened in the Governor's office that afternoon. Talk was abbreviated and quiet. Each side quickly learned that the other would not yield. Again Greive suggested that the areas of disagreement be divided between the parties. Again all rejected his suggestion.

The Democrats adjourned to a separate room. Greive urged them to make some concession. Finally they agreed to divide the issues. The Republicans could subdivide districts 12 and 16 if they could have all disputed precincts in districts 5, 21, and 32. The group took the proposal back to the Governor's office, calling this their final stand. Evans suggested that all meet again that evening, but O'Brien and Schaefer refused. They would not return until the Republicans were ready to compromise.

The House Democrats did not return that evening, but Greive did. He discussed the disputed areas with the Republicans, made no progress, and then announced that he would pass his own version of compromise through the Senate. He wanted very much for the legislature to finish the job, feeling that any more delay would cause the fragile agreement to collapse.

All that afternoon and night Gorton's aide rushed to complete a draft of the Republican version of the compromise. When it was finished, he gave it to Greive and his aide and told them how to rewrite the plan in the five disputed areas. Greive accepted the ready-made draft. Later he accused Gorton of "fast-penciling" him on the lines of a few supposedly undisputed districts. If fact, those districts were then undisputed, but the agreement on them was usually vague enough that had Greive and Gorton drawn their own bills, slight differences would have appeared. Enough slight differences would collapse the compromise; that was the reason why Gorton's aide was so anxious to draw the final bill.

By the next morning, Thursday, February 18, most of the controversy over the 21<sup>st</sup> district disappeared as soon as Evans called Dootson into his office and explained the problem. Dootson was astonished. He admonished the Governor not to let this suspend the fate of what seemed to be an honorable compromise. "Do whatever you want with my district," he told Evans, "I am sure it will be the right thing."<sup>8</sup>

That morning legislative leaders from both parties met in Schaefer's office. Greive made a new proposal to the Republicans. He would subdivide the 16<sup>th</sup> district in exchange for major Democratic gains in the controversial 32<sup>nd</sup>. The Republicans left to discuss the proposal in the Governor's office. Moriarity and Ryder returned shortly with the news that the Republicans would not concede anything.

The two Republican senators walked back into what they described as a "Democratic bloodbath." O'Brien and Schaefer had grown furiously suspicious that the bill protected Greive's Senate faction in exchange for relinquishing control of the House to the Republicans. Senators and representatives ran in the same districts, Greive had retorted; "This is your own senator you are protecting."

Greive still continued his attempt to force a final settlement. Later that day he made a series of proposals to Moriarity, Ryder, and Neill, hoping to eliminate the 32<sup>nd</sup> district controversy. The three Republicans studied the proposals, then called Evans for his advice. Evans was with Gorton and Pritchard in the kitchen of the Governor's mansion, discussing the same problem. The essence

of Greive's proposals, Moriarity told them, was that everything could be settled if the Democratic position on the last three or four precincts in the 32<sup>nd</sup> district was accepted. Gorton was adamant—the Republicans must make no concessions. The three returned to Greive with the message.

The differences all hung on the 32<sup>nd</sup> district. The other problems had been forgotten or solved by mutual consent of the affected legislators.

### Senate Democrats Rebel

Greive's opponents in the Senate had already told him that they would try to defeat the compromise. With alarm they had realized what the bill would do to their faction. If they were ever to wrest control from Greive, they had to move now.

On Tuesday, the day negotiations had begun in the Governor's office, they had made overtures to Senator Williams, hoping to gain Republican support for separate negotiations that would exclude Greive. On Thursday night, February 18, the two leaders of the resistance, Gallagher and Senator Martin Durkan (Dem., King County), along with King County election official Edward Logan, called Gorton into one of the Senate hearing rooms and presented him with a redistricting plan for Seattle that was more favorable to the compromise. In addition, the three told Gorton they would not insist on the protection of the Spokane senators. Gorton was sorely tempted to accept the proposal, but feared it was only a ploy designed to destroy the compromise.

On Friday Greive faced the hostile senators. In the caucus Gallagher, Durkan, and Mardesich assailed the compromise as a total "sellout" of the Democratic Party. Others lodged equally vehement objections, and neither Greive nor Bailey dared ask for a caucus vote on the plan, fearing it might not command the support of half the Democrats. All that day and night Greive argued his case for the compromise, stating that it was necessary, that the Democrats could not dictate their own bill, and that this was an honorable compromise representing the only hope of the legislators to do the job themselves. If they failed now, Greive predicted, the court would take over the job and the desires of the incumbents would be forgotten forever.

The caucus met again on Saturday. Again, Greive's opponents attacked the plan. Greive now replied to their charges confidently, knowing he had the majority. He would move the compromise bill onto the Senate floor as soon as the remaining areas of dispute were settled.

### VIII. THE FIGHT ON THE FLOOR

Greive talked for two days with Republican senators Moriarity, Neill, and Ryder. They could reach no new agreement. On Sunday night, February 21, Greive, deciding that he could wait no longer, began to move his bill through the Senate.

To review Greive's bill the senators abandoned their chamber and locked themselves in a basement hearing room, barring all but senators and staff. Those locked out included some very angry newsmen. District by district Greive and his aide explained their bill and district by district Senator Gallagher questioned, embarrassed, and harassed. Gallagher spoke as chief opponent of the bill, frustrating its supporters, stalling the proceedings, trying to force Greive to lose his temper and his control of the meeting. Laboriously Greive continued to explain the bill. Each senator received his due recognition, until all 40 districts had been explained. The senators filed back up to the Senate floor.

Immediately one of the bill's opponents moved to adjourn. The vote would be close, for although Greive and the Republicans wanted to stay and work on the compromise, many of Greive's supporters were weary and anxious to quit for the day. Suddenly they realized that one Republican was missing. By the time they located the missing senator, who had left the hearing room for Gorton's office to question his district, it was too late. In his absence the remaining senators had voted 24-24, and Lieutenant Governor Cherberg had broken the tie and sent them home.

#### The Positions Harden

As the chambers emptied the negotiations resumed. Greive and the three republican senators were now joined by Gorton and two other Senators, John A. Petrich (Dem., Tacoma) and Fred H. Dore (Dem., Seattle). Petrich objected that his Tacoma district, the version that Gorton's aide had drawn and Greive had accepted, was "too Republican." Gorton insisted that the lines in the bill were the lines agreed upon in the Governor's office. Soon Greive was shouting that he hadn't agreed to

any lines that made the district “that Republican.” Gorton retorted that Greive was opening up areas of the bill already decided.

Nothing could be decided for Petrich. Greive suddenly announced that he would settle the 32<sup>nd</sup> district and accept the lines originally negotiated. He drew this out on a map, but Gorton immediately objected. Greive’s lines, he said, left out three key precincts. Greive retorted that he couldn’t possibly give up those precincts. He could hardly control his caucus as it was, and his lines had been agreed upon. Gorton denied this, saying that the three precincts were in the original agreement, and that Greive had protected all his friends and now refused the Republicans the one senator they wanted to save.

The 32<sup>nd</sup> district had been redrawn too many times. Gorton offered to accept the lines both had initialed in the Governor’s office that first night. Greive threw up his hands and paced around the room. Knowing he couldn’t go back to his caucus with that, he angrily blasted Gorton for killing the compromise and predicted that redistricting would go to the court. Then Greive left hurriedly.

As much as the tired and frustrated negotiators remaining wanted to ignore it, Petrich’s specific problem was still present, threatening to drag the whole bill down with it. They talked for over an hour. Dore continued to urge the two sides to split the difference. This seemed to satisfy Petrich. Gorton, exhausted from Greive’s tirade and the continual pressures, finally agreed.

Meanwhile, the House had exploded over the compromise. O’Brien and Schaefer, seeing Greive move on his own, were convinced that the bill heavily favored Senate Democrats but surrendered the House. By Sunday night the “old line” Democrats in the House were in open revolt against the compromise.

For two weeks Moos and Gorton had been pressing redistricting bills on the Democratic representatives—first the Governor’s bill, then the Moos amendment, and now their own version of the compromise. Republicans raced to pass that through the House before Greive put his version through the Senate, feeling that this was the only way to avoid the deadlock and win acceptance of their position. A dozen House Democrats seemed ready to support the compromise, but Moos and Greive could not pin them down. Day expressed their hesitations when he told Gorton that he wanted to make sure he voted for the real compromise.



In fact, all House Democrats were under tremendous pressure to stick by their caucus; O'Brien deemed any wavering unjust and disloyal. He and Schaefer kept close surveillance over Gorton's and Moos' progress; any Democrats showing the slightest interest in either version of the compromise was called into the Speaker's office for a chat with his leaders.

To forestall passage of the compromise, O'Brien and Schaefer told Grant to prepare his own version, one that "did more" for the representatives. Having little knowledge of the negotiations, Grant began to draw another House bill for House Democrats. The lines of the compromise quickly faded into the shapes of S.B. 2. The "Speaker's Bill," as it was known, resembled the Greive-Gorton compromise in only 18 of the 49 districts. On Monday afternoon, February 22, Schaefer and Grant brought the Speaker's Bill before the House. Gorton did not attempt to substitute his version of the compromise, for he knew that not even Day would support it. Debate was short; the Speaker's Bill passed, 57-42.

### Greive Finishes the Compromise

While the House was passing the Speaker's Bill, Greive was making final preparations to move the compromise. On Monday morning, February 22, he called the Democratic senators into caucus to tackle their knottiest problem, an inner-party issue. Backers of Senator Hallauer wanted to insure his return to the Senate by denying a fellow Democrat the chance to run for his new seat until two years after his current term expired. (His and Hallauer's districts were merged under the bill.) The issue quickly became a pro- versus anti-Greive test. Opponents of the compromise, seeing an opportunity to discourage Greive's supporters, backed Hallauer. It was a perfect coalition, and on a secret ballot, Hallauer triumphed. The downcast supporters of the bill resolved to take the issue to the Senate floor.

Greive now began to twist the old "scalping" strategy, originally designed to force on the "new breed" Republicans a final automatic vote. But it was now the House Democrats who would bury any new bill. Greive searched through the senate redistricting committee and found H.B. 196, Grant's original bill, and prepared to scalp it with the compromise.

The redistricting committee met Monday evening. Greive was ready with his last-ditch strategy. Only the 32<sup>nd</sup> district seemed to stand in the way of a final settlement, and as soon as the committee convened Ryder and Neill moved to add three heavily republican precincts to the 32<sup>nd</sup> district. Ryder stressed that if the precincts were left out, Republicans would fight the bill all the way. Committee chairman McCutcheon said he regretted the Republican's stubbornness, but feared that defeat of their amendment would kill the compromise. He threw his support to the minority, other Democrats followed, and the Republicans won their point by a two-to-one margin.

Greive announced that the new Republican advantage must be matched. The 31<sup>st</sup> district in South Seattle was not Democratic enough, he said, adding that the Republicans had fast-penciled him and drawn it "swing." Gorton's aide huddled with the Republican senators in the committee as Greive spoke, frantically urging them to stop Greive's amendment. The lines of the 31<sup>st</sup> district, as drawn in the Governor's office, did make the district Democratic, but Republicans might win a House seat there in a good year. Such opportunities, he insisted, were what gave the bill its balance, and Greive's amendment to "lock up" the district for the Democrats would destroy that balance. This was news to the bewildered Republican senators, who protested mildly against Greive's proposal. It carried on a party-line vote.

Greive, insisting on another advantage, proposed to subdivide the 32<sup>nd</sup> district, insuring that one of its two representatives would almost always be a Democrat. Again the Republicans objected; again they were defeated.

Gorton, waiting downstairs in the Republican caucus room, was deeply crushed by the news of the changes. The three precincts gained in the 32<sup>nd</sup> district, important as they were, did not make up for the terrible loss in the 31<sup>st</sup>. Gorton could not bury the horrible thought that the bill was made worse by the committee.

The Republican senators caucused and heard Gorton argue that Greive's new changes radically altered the balance of the bill. Some senators objected. They said he had never told them that the district was supposed to be "this way." They thought it belonged to the Democrats. Other were simply discouraged. They had won their fight over the 32<sup>nd</sup> district only to open up greater wounds. But all agreed to oppose the 31<sup>st</sup> district change on the Senate floor.

When the Senate convened, Minority Leader Moriarity immediately moved to consider the 31<sup>st</sup> district as the first order of business. McCutcheon asked if the committee amendment to the 31<sup>st</sup> district would kill the bill, but Moriarity carefully avoided a direct answer. Other Democratic senators asked. Moriarity hinted that it would, but avoided any exact statement that would surely invite sharp criticism.

Senator Gissberg, strong opponent of the compromise, forced the question. He moved that the Senate begin considering the committee amendment with District 1. But the Republicans wanted to hold attention on the 31<sup>st</sup> district; this would be the test vote. Seven Democrats, most of them strong supporters of the compromise, joined the solid block of 17 Republicans and defeated Gissberg's motion 24-23 (two Democrats did not vote). The Republican success startled proponents of the bill, who came on with a flurry of motions, and Gallagher finally had the vote reconsidered. This time the two abstaining Democrats voted. Their votes were split, and again the Republicans triumphed, 25-24.

Cherberg put the 31<sup>st</sup> district amendment before the Senate. Moriarity's motion to lay it on the table was followed by another avalanche of motions to reconsider. Again he was defeated, 25-24.

So far the opponents of the compromise had led the fight against the Republican demand. Now Greive, who had been reassuring the supporters of the bill, asked for a question of consideration, which would kill Moriarity's motion if passed. Through this parliamentary technicality the Democrats were entitled to the 31<sup>st</sup> district. Senator Neill insisted that the compromise was "too delicate. . . a matter of balance," and that changes "like this" could break the whole settlement. Again Moriarity was asked whether the change would break the compromise. He would not be explicit, but Senator Greive understood and bitterly observed that the Governor was behind Republican obstinacy.

In the end Greive was able to convince the Democratic supporters of the compromise to hold fast, and opponents of the compromise were too upset to make any concession. Moriarity's motion was killed on a party-line vote. The Democrats then adopted their own version of the 31<sup>st</sup> district.

The Senate dragged through minor amendments until nearly three a.m. Democratic opponents of the bill knew they could not defeat the measure on their own. They needed help from

over half the Republicans. The bond welded suddenly. Senator Robert L. Charette (Dem., Aberdeen) brought out a copy of the old Governor's bill and moved to substitute it for the compromise. The senators, Charette accused, were motivated by nothing but interest in their own districts. Since that was how the game was played, he said, he was presenting the one bill that "best takes care of me." He added that Greive had sold out for personal gain, and "as long as the Democratic Party has been sold a bill of goods, we might as well go all the way with Dan."

Charette's speech infuriated democratic supporters of the compromise. To eliminate him quickly, McCutcheon moved to lay Charette's motion of the table. It was defeated, to everyone's surprise, 27-21, with Republican support.

McCutcheon exploded. Turning to the rear of the Senate chambers, he told opponents that he "wasn't going to take that from you back there." Charette retorted, and caucus chairman Bailey shot to his feet to lash out at the opponents. Opponent Mardesich spoke against the deal-making in the caucus, and more Democrats jumped into the fray.

Republicans, unnerved by the fracas that was splitting the Democrats and spilling from the secrecy of the Democratic caucus onto the Senate floor, did not dare to defend the Governor's bill strongly, lest they halt the fascinating display.

At last Senator Gallagher, leading opponent of the compromise, began to speak. "The Governor's bill," he said, "sinks the whole Democratic Party." His words had special meaning for Gorton, who remembered how Gallagher had made generous offers to the Republicans while trying to sidetrack the compromise. He was now making the most bitter attack on the Republican position.

Gallagher's remarks and Greive's influence brought the Democrats back into line. When the final vote was called, only four Democrats voted with the Republicans. A motion by McCutcheon to postpone indefinitely the Governor's bill passed, 28-20.

Now the Hallauer controversy, which had been put off until the end, came before the Senate. Earlier that evening Hallauer, hoping to tie his problem to the 31<sup>st</sup> district, had indicated to Gorton that he could organize enough Democrats to defeat the change. Gorton had relayed this to the Republican caucus, and all 17 Republicans had agreed to vote with Hallauer on his district number.

But just after the Senate had convened, Hallauer had reported back that he would have to support the 31<sup>st</sup> district change. Earlier he had pledged his support to the Democratic senator from the 31<sup>st</sup>, and the senator would not release him. This had enraged the Senate Republicans, who now voted solidly against Hallauer's position. Even though Hallauer commanded the votes of a majority of the Democrats, the Republican deluge gave away the victory. As if this were not enough for Hallauer, the Democratic senator from the 31<sup>st</sup> district voted against him.

The battle raged on through the night. It was now morning, and everyone was tired. Gorton, exhausted and gloomy over Hallauer's defeat, had failed to keep track of the political implication of all the changes in the bill. He sat sullenly on the secretary's desk in the caucus room as the Republicans filed in to decide what to do, while Democrats waited impatiently in the chambers.

Gorton did not like the bill, but he would not tell the senators how to vote. Ryder, Neill, and Moriarity informed the caucus that they could not vote for the bill because of the 31<sup>st</sup> district. The change had taken too much. In a fiery speech, Senator Woodall urged the caucus to vote together behind the three senators who had represented them in negotiations. Although everyone agreed, they were all tired, and the decision was too easy. The Democrats could tell by the dejection of the Republicans leaving the caucus room that the bill was dead.

Just before seven a.m. the senators voted. All votes for the compromise came from Greive and his supporters—a majority of his caucus, 19 votes in all. It was six votes shy.

### The Senators Approve

The Republicans wanted to change the 31<sup>st</sup> district, or at least half of it, and save the compromise. Greive protested strongly against this and announced that he had begun to work on another redistricting referendum.

Moos and Gorton implored Senate Democrats to yield and save the bill, but at first no one would succumb. Then, late Tuesday afternoon, just before the Senate convened, McCutcheon agreed to vote for a half-way solution. Republicans, expecting McCutcheon's position to sway other Democrats, were jubilant.

As soon as the Senate convened Neill moved to bring the defeated bill back before the Senate. Republicans and Democrats joined in approving reconsideration, 34-13.

Neill moved to pass the bill back to the amendment stage (second reading) so that he could offer the 31<sup>st</sup> district change, but the Democrats were not in the mood to debate the question. Only four, including McCutcheon, were willing to even consider retreat, and the opportunity was lost, 26-21.

Having reconsidered the bill, the senators still had the compromise before them on final passage. Moriarity asked for a caucus, and the republican senators retired to decide what to do.

The caucus decision to support the compromise was immediate, spontaneous, and unanimous. Gorton advised the Republicans that time had run out and the court was ready to take over the redistricting task. Although he had not analyzed the compromise in any detail, he had compared it to old Democratic and Republican measures, and now he told the senators that the compromise bill was as good as the party might ever get. Not wanting to appear overly anxious for the bill's success, however, he told the Republicans to split their vote. The senators agreed to vote 10-7, and Gorton then assigned the seven "nays."

As soon as Cherberg brought the Senate to order, Neill announced that the time for negotiations was past and that the bill was a reasonable balance. Opponents of the compromise resumed their attacks, but only a few spoke before Greive told them that "most who say we sold the party down the river don't know what they're talking about." The compromise, he added, "comes pretty close to reflecting the popular vote." The Clerk then called the role, and the Republicans added their 10 votes to the 21 Greive already had, passing the bill through the Senate and onto the House, 30-18.

The Republican ruse fooled the press, but the Democratic representatives crowded into the Senate chambers were taken in. They considered the bill a "complete sellout" and were convinced that the Republicans meant to pass it in to the Governor before Democrats examined it closely. O'Brien and Schaefer billed the battle as a party affair, Democrats against Republicans.

Earlier Gorton had been confident that any compromise bill first passed by the Senate would whisk through the House. But it now appeared that O'Brien and Schaefer were firmly in control, and

passage would have come by a single vote, if at all. Yet the proponents of the compromise had a most powerful weapon for breaking House Democratic resistance. While the bill was in the Senate the court had acted.

The original court order, issued in October, had prohibited the lawmakers from even considering legislation other than redistricting, and this prohibition had included committee work. It had been designed to spur the legislators to a rapid resolution of the redistricting issue. But in late January Attorney General O'Connell, on his own initiative, had intervened and nullified that order. Arguing that the judge had not intended a ban on all legislative operations but only on the passage of bills, he had convinced the court to "correct" its October order and issue a new decree allowing lawmakers to begin committee work and amend bills on the floor. Since the final passage of most bills was rarely accomplished before the final weeks of most legislative sessions, the "corrected" court order never effectively hindered the normal progress of legislation.

On the fortieth day of the session, Friday, February 19, while Greive had been calming his hostile caucus, the court had suddenly and unexpectedly turned the pressure on the legislators. It had called a hearing of all the parties and scheduled it for the following Friday, February 26. The stunned legislators, fearing that the judges had become impatient, assumed that the order meant that on Friday the court would take over the job and draw its own bill.

As soon as the compromise bill passed the Senate on Tuesday, February 23, both Greive and Gorton began to argue that any representative's vote against the compromise was a vote to send the matter to the court.

### O'Brien Stops the Compromise

Ex-Speaker O'Brien, now in full command, was using all his political skill to hold his caucus together and defeat the compromise bill, a bill he thought would surely destroy the Democratic majority in the House. He kept up "the Treatment" in the Speaker's office. He and his colleagues argued with wavering legislators, making appeals for loyalty, promising power, threatening retribution, and using rational arguments. The threats and promises they made were not insignificant.

But O'Brien opposed a force that awed veteran legislators and even the unshakable newsmen—the bizarre team of Greive, Gorton, and all their supporters, working together, side by side, trying to pass their redistricting compromise. Slowly they eroded O'Brien's margin. When the bill came to the House they had already won over seven of the necessary eleven Democrats. The seven, long-time supporters of a reasonable compromise who had always rebelled at the militancy of O'Brien and the "old line" Democrats, were Jack Rogers, co-sponsor of the Governor's bill; Jack Dootson, frequent supporter of Gorton's redistricting leadership; Hayes Elder, Greive's old aide and strong ally; and four of the original six dissidents, Day, Perry, Hurley, and King. (All 39 Republicans would vote for the bill. In their Wednesday morning caucus Gorton convinced them that was absolutely necessary—they must pass the bill or face the court. Gorton still had reservations about the measure, but he knew that the redistricting battle in the legislature was at its end.)

On Wednesday, February 24, fearing that the compromise would pass if ever put to a vote, O'Brien changed his tactics. He devised a series of parliamentary maneuvers designed to prevent the bill from ever reaching final passage. The House, he argued, should not vote on the compromise now. Instead, the bill should be sent to a conference committee, where he could extract enough concessions from the Republicans to make it palatable.

This was O'Brien's position Wednesday afternoon, when support for the bill jumped from 46-49, leaving O'Brien with no votes to spare. Greive had won over one of his strongest supporters in the House, Representative Wayne Angevine (Dem. Seattle). Angevine had been a state senator, had been defeated, and then had been elected to the House. The bill seemed to guarantee his return to the upper body. Day and Perry had convinced the two other original dissidents, Kink and McCormick, to follow their old friends.

O'Brien and Schaefer called the Democrats into caucus to make sure they still had that one crucial vote, the vote with which they hoped to precipitate a conference committee and put the compromise to rest. But Greive's arguments had won over the fiftieth vote for the compromise. Representative Mark Litchman (Dem., Seattle), fearing that the court was about to draw the districts, announced that would have to vote the bill.



When the caucus doors opened and democratic representatives filed across the Republican side of the chambers, a whisper from one of the dissidents sent out the news that Litchman would vote for the bill. Litchman emerged from the caucus almost last. At his side was O'Brien, arguing heartily for a little more time to work out a few concessions. Litchman was surrounded on the House floor. The crowd filed to the Speaker's rostrum to argue the impending problem. Litchman would vote "aye" on the opposing motions—O'Brien's to delay and Gorton's to enact the compromise. In other words, the whole outcome of redistricting apparently swung on whichever motion was voted on first. House rules explicitly required Schaefer to put Gorton's motion to enact first, but at that moment Schaefer would bury the rules.

O'Brien left the group around the rostrum and returned to Litchman, who had once been his old majority leader. He offered Litchman, who hoped to please everyone, an argument that might force him out of his quandary. The Republicans, O'Brien warned, had secretly devised ways to rewrite the compromise bill, using the Governor's power of "line-item" veto. By striking lines out of the bill, the Governor could redraw districts; by striking whole sections, he could enact just the districts he liked and force renegotiations on the others.

The floor debate began. Minority Leader Copeland assured the Democrats that his vote for the compromise was his recommendation that the Governor sign the bill in its entirety. But Copeland was in no position to make any denials, for the use of the "line-item" veto had been part of the Republican strategy since the session had begun. Knowing this, Litchman explained that he would vote for the compromise when he was assured that the Governor would not use the "line-item" veto. Saying that "without a commitment from the Governor this bill is dead," Litchman voted against the republican motion to approve the Senate-made compromise. The bill lost by a single vote.

During the debate the Democrats had brutally attacked the bill, accusing Gorton, Greive, and Evans of a conspiracy to "grab power." Republicans had held back replies, fearing that a sharp speech might lose votes. But Litchman's switch, when victory seemed so close, brought a bitter rebuttal. When O'Brien moved that the House ask the Senate for a conference committee, Pritchard caustically observed:

We've has a conference going for 45 days. . .you over there can't go straighten out your senators. . .you're going to the court. . .Who's going to be on the conference committee? You over there probably can't decide on two members to represent all of you.

The conference request was approved by a single vote. But the issue was not dead yet. The Senate could insist on its version and ask the House for another vote.

### The Governor Replies

Litchman's request caused great consternation among the Republicans, who could not decide whether to have Evans answer him or forget him and try to win another legislator. Most, including Gorton, favored going for another vote, or even letting the issue go to court. They believed that the Governor just didn't do such things. The Governor's personal advisers, on the other hand, flatly told Evans that he had better take some action. He must appear to have "done his part," they urged.

The two sides carried their arguments before Evans at the morning leadership meeting on Thursday. The legislators argued against any degrading and precedent- setting move, while the advisers, insisting that precedents on redistricting would not carry over to other issues, pleaded for any action to absolve the Governor from possible castigation should the bill fail. Interestingly enough, by that time none of the Republicans favored using the "line-item" veto. They thought it would surely invite a court test and no one wanted to risk court nullification of the whole bill for a few "line-item" changes.

By that morning the pressures on wavering House Democrats had become intense. The foremost argument was the imminence of the court hearing the next day. Again the Republicans called in outside groups—this time political and civic leaders favoring redistricting whole districts were served by the wavering representatives. Moos and Pritchard plied indecisive Democrats, while Gorton pushed representatives he thought might crack. Greive, meanwhile, dispatched swarms of senators to calm the fears of their district's representatives.

Still O'Brien held on. He argued solely for delay, hoping that the tension would splinter the bill's supporters before it exhausted his Democrats. To Greive's and Gorton's apparitions of court

action, he gave assurances that the court would delay and perhaps even lift its ban on passing bills. To Greive's and Gorton's intractability, O'Brien asked for a conference committee and some Senate action on the recently passed Speaker's Bill.

That afternoon the senators acted on the Speaker's Bill by burying it in McCutcheon's redistricting committee. Greive then asked the Senate to insist on the settlement and request the representatives to vote on it again. On the floor he argued:

Either we do or do not have a compromise . . .this is an honorable compromise. . .Conference is impossible; if you pull you one district, you wind up pulling them all out. . .I'm not convinced that the bill does the things the House says it does. . .those were lies.

Senate support for the compromise bill had not waned; while O'Brien was arguing his case, Greive had gained another Senate supporter—22 in all—and this time all 17 Republicans voted together. The 39-10 margin was resounding evidence that the Senate did not desire to reopen negotiations on the compromise.

Governor Evans called in the press shortly after the Senate acted. Because of the court hearing, he said, today was the “last chance” to show that the legislative process could function properly. Because of the separation of powers, he continued, it was unwise for binding agreements to be made between the legislature and the Governor. He added that he was very happy with the compromise and stood ready to approve it as soon as the House passed it. The press repeatedly questioned whether this meant no “line-item” vetoes, and each time Evans replied that he wouldn't be approving the bill if he were to do that.

Greive, Gorton, and all their supporters gleefully prepared to pass the compromise through the House that night with Litchman's vote. But half an hour later the state received a new message from the court, and it appeared to all the compromise bill was dead.

### The Legislative Battle Ends

The impending hearing, the crux of the proponents' central argument, had been delayed for ten long days. O'Brien had privately pressured O'Connell to have the court lift its ban on passing

legislation or at least delay the hearing. When Judge Beeks had contacted Attorney General O'Connell to ask what a delay might do, O'Connell had replied, without consulting the Governor or the bill's proponents, that a delay was in order because a redistricting solution was imminent. He had quietly convinced the other parties in the suit to support the delay and that Thursday morning had sent one of his assistants to Seattle with the necessary papers. Only hours before the order was signed, a few Republicans learned of it and objected to the court, but to no avail.

Evans called the press back and reprimanded O'Connell for his independent action. At the same time, Greive, who was normally close to the Attorney General, told the press that O'Connell had "blown it."

Litchman stolidly maintained his support for the compromise when he heard the news. He met with Greive, who afterward predicted that Litchman would not be shaken by the court delay. An hour later Democrats claimed they had recovered Litchman's vote, but by then the legislature was floating on a sea of rumors, including the suspicion that Speaker Schaefer would adjourn the House that night, regardless of whether he had the votes, but "railroading" through the motion.

Senators, state officials, staff, and spectators packed the wings and galleries when the House convened at eight in the evening. Governor Evans stood just off the floor with his advisers, for he wanted to watch the culmination of the long redistricting battle. While the Democrats caucused and the Republicans waited nervously, another rumor rippled through the crowd on the floor. Three more Democrats had defected, and the reason for the long delay was O'Brien's effort, behind the caucus closed doors, to hold as many votes as possible.

At last the Democrats opened the caucus doors and walked through the masses blocking the wing, through the Republican side of the chambers, and to their seats. They filed by quickly and quietly. Neither Day, Perry, Elder, nor Angevine would stop and talk to the Republicans.

The House still had that curious lack of coordination existing just before the start of any long session. Suddenly one of the Democratic leaders moved to adjourn. It snapped the Republican legislators to attention. In an instant most were on their feet, shouting for recognition. It was the normal response of the opposition faced with a "railroad," and normally futile.

Speaker Schaefer hesitated. The House was in an uproar, and already newsmen were at their cameras, filming the event. Schaefer waited just a bit longer. Then he casually recognized O'Brien, who, with complete confidence, called for an oral roll call.

The Republicans continued to shout as the reader called off the names, some cursed loudly, and nearly all began to boo when Litchman voted for adjournment, apparently providing O'Brien with what would be the fiftieth vote.

With that the Republicans quieted, drowned by the realization that they did not have the votes. The reader droned through the next 31 names alphabetically. When he came to elderly freshman Democrat Ben F. Taplin, Taplin voted so softly that only a few positively heard him say no, yet the mood in the chambers changed so suddenly that everyone knew what had happened.

What followed, after a short period of general disbelief, was a great rush toward Taplin, who sat unresponsively in his seat as if nothing had really happened. The leadership milled around his desk. O'Brien, in a rage, insisted that Taplin change his vote, but Moose stoically stood guard over the man whose vote he had so carefully nurtured.

By then the roll call was over. Speaker Schaefer, announcing that the motion to adjourn had failed, 50-49, recessed the House and called for another Democratic caucus.

No one before had asked Taplin his vote in the caucus, and few Democrats during the past 46 days had paid much attention to the legislator from rural Asotin County. But now, behind locked doors in the caucus room, Taplin was the whole party. O'Brien pressured Taplin to vote for adjournment and give his leaders just one last try at the Senate. After twenty minutes Taplin finally yielded to the voices of this caucus and agreed to vote for an adjournment, but only once. He would not delay beyond the following day, for his vote was committed to the bill. (Earlier he had asked Moos and Pritchard if the Governor might veto his separate sub-direct under the bill. That morning, before the press conference, Pritchard had returned with the Governor's private assurance that he would not.)

The cortege of Democrats moved back into the chambers and without any debate, carried the motion to adjourn by that single vote.

It was only a formality when the representatives reassembled early Friday afternoon, February 26. To be sure, O'Brien had done his best during the night to move the senators or win back a vote in the House. At the Speaker's rostrum O'Brien argued again that the House should ask the Senate for a conference before finally voting on the compromise bill.

This time O'Brien did not have the votes. He made his motion and opened the bitter complaints of the Democrats, but after a short time Copeland moved that the House adopt the compromise bill. Thus began the final legislative act in the two-year redistricting battle.

As the debate wore on, the Democrats' speeches grew more and more bitter. The Governor, some said, was a "power-hungry dictator," bent on engineering a redistricting bill that would destroy their party. They told of the legislative travesty that had denied to their party, to which the voters had given full control of the legislature, the right to draw the final redistricting bill.

Through all the floor debate of the last days Gorton had remained silent, so as not to stir hostilities. After the legislators had grown tired of talking and were ready to vote he said:

We have reached the end of a road that started over two years ago. It had involved all issues that normally come before the legislature. In the sense that we were forced to deal with one another—and have taken great amounts of time. . .and have districts with weird and wonderful shapes. . .[this] may have resulted in a better solution for the people of this state than would a solution dictated by one party or another. Senator Greive has been devoted to a solution to this problem for three years; I never noticed that he was anxious to do in his own party. It's hard to see how a district that "saves our senators" doesn't also "save our representatives." The legislature is as poor an arena as possible for redistricting, but we can say, "we did it." The only thing to be joyful over is "you have done the job."

In the end 56 representatives voted for the bill—all 39 Republicans, Dootson, Rogers, the six dissidents, Elder, and Angevine, and the new votes of Taplin, three more of Moos' friends, two Democrats who had felt the pressures from local political and civic leaders, and Litchman. O'Brien was able to hold only 43 votes.

By prior agreement Schaefer and Cherberg immediately signed the bill, passing it on to Governor Evans. An hour later, at a ceremony in his office, Governor Evans signed the new redistricting of the Washington State Legislature into law.

## IX. AFTERMATH

All that remained was for the court to approve the bill and drop its ban on legislation. The Attorney General believed that the ban could be lifted as soon as he had ruled on the constitutionality of the new law. Therefore, shortly after the redistricting bill was signed, Assistant Attorney General Philip Austin began to prepare the state's brief. Austin wanted to hand it over to the court on Monday. The calculation of the exact district populations, however, would take at least the entire weekend. This meant that Austin could not make the Monday deadline; furthermore, the two redistricting aides were too weary to toil through Saturday and Sunday.

As a result, Austin accepted the list of district populations that the aides had hastily prepared during the floor fight. The figures were approximations. For some large districts the aides had made conservative estimates. The figures were not terribly inaccurate, but the error might have approached 10 per cent for some of the larger districts, not a small variance for district populations that were not supposed to vary more than 15 per cent from the "ideal."

On Saturday, hoping to provide Austin with more accurate figures, the aides calculated the populations of the larger districts. As they expected, their estimates had been too small. They reported this to Austin, who changed some of the figures accordingly but merely "adjusted" others. Essentially the original figures were retained.

Austin completed the brief during the weekend and on Monday, March 1, filed it with the court. The judges, immediately agreeing to drop the ban on legislation, set a hearing for the following week.

On Tuesday Austin met with the LWV and Thigpen's attorney. He asked them to accept the populations in the state's brief so all could go before the court with a single set of figures. Thigpen's attorney was not disposed to challenge Austin's figures, but Seattle LWV officer Lois North, experienced in counting district populations, suspected that some of the figures might be too small and asked for a few days to check them. When the group met again on Friday, Mrs. North

announced that her check showed that Austin's figures for the larger districts might be off by as much as 10 per cent. Nevertheless, Austin was able to persuade her and the others that his figures were sufficiently accurate for legal purposes, and since no one wanted to reopen the legislative battle, all agreed to use the state's populations.

During the next three days Thigpen's attorney reversed his position, deciding that the districts were too inequitable. When the court met on Tuesday, March 9, he did not speak out against the figures he had stipulated, but instead argued that the bill was unconstitutional because the populations were based on the 1960 census instead of the current 1965 populations. Since 1960, he noted, suburban areas had grown considerably. Since all agreed that the districts were barely equitable by 1960 standards, he argued, the districts were surely unconstitutional by 1965 standards.

Austin, who was prepared for this, stressed that there was ample precedence for using the 1960 census maps to calculate the districts' populations. Even though those figures might not reflect existing populations, he said, the 1960 census was the only reliable measure. Any reckoning of district populations based on incomplete 1965 figures, Austin insisted, would produce rough estimates.

The three judges upheld Austin's arguments. Noting that the plan was hardly perfect, the agreed that it "would do until 1971," when the state constitution required the legislators to redistrict again.

### The Final Skirmish

O'Brien still tried to alter the redistricting bill after it became law. In late March he and Grant drew up an amendment that would nullify the Republican gains on the Seattle area by redrawing half a dozen districts there. O'Brien planned to pass the amendment through the House, then go before the State Supreme Court and argue that the districts in the Greive-Gorton bill violated the "convenient and continuous" clause in the state constitution. As a result, O'Brien hoped, the court would throw out the Greive-Gorton districts and substitute his own six.

Democratic Representative Warnke later took charge of the bill's passage and altered this strategy substantially. He thought he could push O'Brien's amendment through both the House and



the Senate, then enlist the support of his employers at Boeing to pressure Evans into signing the measure.

Gorton knew that Governor Evans would veto O'Brien's amendment, but he had an interest in having it pass. Gorton wanted to tie it up with a set of his own amendments that would correct some minor errors that had been discovered in the redistricting law. Earlier he had feared that any attempt on his part to present the corrections would encourage the Democrats to reopen the entire redistricting battle, but when Warnke proposed confining all changes to the O'Brien amendment, Gorton cheerfully offered his corrections as a rider to the bill.

It was a strange coalition—Gorton and O'Brien—but it pleased Warnke, who was anxious to get his bill through the legislature. Gorton thought it was perfectly safe, since he knew that Evans would line-item veto Warnke's amendments, thus enacting only Gorton's corrections.

The representatives were full of both good humor and dreadful apprehension when the measure came before the House on May 3. One Democrat cried, "We may be opening up a can of snakes that could run all over us." Even with the combined support of O'Brien and Gorton, however, the merged measure could clear the House by only two votes.

The bill dies in the Senate. McCutcheon refused to take it into his redistricting committee and instead had it buried forever in the Senate Rules Committee.

## X. POSTSCRIPT

The Republicans won control of the House in the 1966 elections. They came to Olympia with 55 representatives to 44 for the Democrats. The new districting was one major factor in the Republican victory. Thirty-three new representatives came to Olympia, twice the normal turnover; 28 were Republicans. The shrinking of Democratic districts, particularly in the suburbs, made campaigns there more manageable and more visible, and this gave advantages to the better-organized Republicans. (It should be noted too that although the new districting contained no Republican bias, neither did it benefit the Democrats measurably. Had the blitz passed, Republican control would probably been impossible.

But the new districting was only one factor; the other was the popularity of the “new breed,” especially Governor Evans. Many people who had voted for Democratic legislators in 1964 voted Republican in 1966. The Republicans won new seats in districts that had been made more difficult for them under the redistricting. One of the many ironies of redistricting lies here. The “new breed’s” dreams had always been premised on control of the State House of Representatives, yet it was the popularity of their Governor that finally won them the House.

Redistricting produced slightly different consequences for the senators. Although the Republicans picked up three seats, the Democrats also gained. The result of the 29-20 division in the Senate was not only more influence for the Republicans, but more unity for the Democrats. Of the five seats that changed hands, four were to Greive’s immediate advantage, and this was with only half of the 49 senators up for election. Greive protected his faction and bolstered his stature. Thus, in 1967 he took the majority leadership in a walk, subsequently becoming the most powerful Democrat in Olympia.

Why did redistricting succeed? Why were Washington legislators able to reach a compromise when similar processes in other states have broken down completely?

One key was the high morale of the minority Republicans, particularly their confidence in Gorton’s leadership. Surely they fared far better than their numbers would indicate. One

correspondent suggested that the Republicans succeeded because they were able to “divide and conquer” the Democrats. Gorton, to be sure, had great faith in his ability to pressure Greive. Yet the Republicans were able to pressure, divide, and conquer only because they were unified and responsive to the direction of their leaders, who were alert and clever. On that matter, the compromise owed a great deal to Gorton’s abandonment of his general criteria and final willingness to haggle precincts with Greive. It was doubtful that the legislature could have reached a settlement in any other way.

Another key was the Democrats’ pure factionalism and the factions’ willingness to do each other in. Not everyone could be saved under redistricting. It was harder to redistrict the Democrats because there were more of them. Greive’s realization that he did not have to deal with all the Democrats in the end made a solution attainable, and his ability to lead as many as he did, under circumstances far more adverse than Gorton’s, made it possible. Greive could lead, not just represent, legislative sentiment. He alone, among all the state leaders, was inextricably committed to the legislative solution. If Gorton’s persistence produced the compromise, Greive’s ability produced the bill.

A third key was built in the legislative process. Lawmakers simply became tired. Most were weary after two and one-half years of redistricting battles; most were ready to make a deal. Students of the legislative process often overlook this most critical of legislative motivations—the fatigue that hangs over the chambers after lawmakers have exhausted attempts to dictate their own particular solution. The legislative branch is often characterized as the scene of compromise and conciliation, but early in the game it can also be the most hidebound and unwielding. The fact is illustrated by Grant’s and O’Brien’s behavior. Never having been dragged through the earlier battles, they remained militant and uncompromising to the end.

It must be added that of all the factors that tired or moved the legislators, the court was not one. Beyond the instigation of the redistricting battle, the effect of the court was negligible, and even there many have suggested that the court simply gave Greive and Gorton an excuse for starting what the political situation already necessitated. The judges never held to remedies that would have

hastened a solution, and in a few instances actually took the side of those who would slow it. They never suggested to the legislators either the aims of redistricting or the guidelines the legislature should adopt. In the end they never even bothered to really test the new bill against their vague dictates. Those who fear the growth of the court's political power should note that here the court's political performance was confused and insignificant.

Finally, the legislature succeeded because they persisted, partly because they wanted to control the district-drawing and felt that any amateur attempt to redistrict would be disastrous, and partly because of a curious pride they held in the legislative institution. State legislatures may or may not have the capacity to govern, but that cannot be resolved in this one story. Suffice it to say that here, for over two years, the legislators had persisted in the hope that somehow they might accomplish the impossible—the redistricting of Washington State.

**(Footnotes)**

1 The State Constitution prescribed that “the legislature shall apportion and district anew the members of the senate and the house of representatives according to the number of inhabitants” after each U.S. census.

2 Under the standard interpretation, the largest district had a population of 84,000 and the smallest, 42,000. Greive argued, however, that those districts did not approach the population limits. In the smaller district, with one senator and a single representative, each legislator represented 21,000 persons; in the larger district, with one senator and three representatives, each also represented 21,000.

3 Greive had picked Donohue to chair the committee; he had also chosen the committee members. Redistricting was so important that the bills moved at the will of the leadership, almost independent of the committee system. The redistricting committees played the role the leadership allowed them—a great deal in the House, very little in the Senate.

4 Only 30 of the 49 districts were to be represented by one senator and two representatives, the combination suggested by the Attorney General. Some of the districts with one senator and one representative were very small; some of the districts with one senator and three representatives were very large—the extremes between them far

exceeded the standard interpretation of the two-to-one rule, and, in some cases, single-representative districts had more population than districts with two representatives.

Greive's bill contained both a regular bill and a "conditional" one that would automatically become law in 1965 should the constitutional amendment pass at the polls in 1964. The regular bill, in that case, would serve only for the 1965 election.

Greive's regular bill would eliminate five incumbent senators. Gorton's bill would eliminate six or eight. Gorton took the seats of two Republican senators and four to six Democratic senators. Greive eliminated three Republicans and just two Democrats.

Under Greive's regular bill, seven representatives would lose their seats, with three more probably unable to win in their new districts. Out of the ten, only one was a Democrat! Under Gorton's bill, six representatives would lose their seats, but it would be two Republicans and four Democrats.

Had Greive's plan been in effect during the 1962 election, the Democrats probably would have won 55 House seats (instead of 51). Had Gorton's bill been in effect, the Democrats might have won only 46 or 47 seats, while the Republicans might have won control of the House with 52 or 53.

Greive's bill substantially decreased the number of "swing" districts. Gorton's bill increased them (at the expense of the Democrats). Gorton objected that Greive had "locked up" so many districts in his bill that the Republicans would never be able to win more than 48 House seats.

5 For example, in a state with 100 single-member legislative districts, a party receiving 55 per cent of the total vote for all legislative candidates would receive 55 seats. When a party received over 55 per cent, their percentage of the seats would increase geometrically, due to the nature of the single-member district scheme.

Gorton suggested that returns for statewide candidates provided a better test than votes for legislative candidates, which were hard to manage. Thus a candidate for a statewide office, such as governor, who received 55 per cent of the vote would receive at least 55 per cent of the votes in half of the legislative districts. He would show majorities (50 per cent or better) in about 57 of the 100 districts—the 50 districts where he received at least 55 per cent and the seven districts where he received between 50 and 55 per cent.

6 Adele Ferguson, the Bremerton Sun, January 29, 1965

7 Amendment 7 to the State Constitution read in part: “The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures referred to the people of this state shall be had at the biennial regular elections, except where the legislature shall order a special election.”

8 In the 1966 Democratic primary all three ran for the two seats and Dootson was defeated.

